

# Ballot Vacancies, Sore Losers, and Petition Candidates

## June 8, 2016



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2016 State Board of Accounts Conference

## LOCAL BALLOT VACANCIES

- Major Party Vacancy Forms
  - Call of Party Caucus (CAN-30)
  - Declaration of Candidacy (CAN-31)
  - Statement of Economic Interests (CAN-12)
  - Certificate of Candidate Selection to fill an Early Ballot Vacancy (CAN-29)
  - Certificate of Candidate Selection to fill a Late Ballot Vacancy (CAN-35)



## LOCAL BALLOT VACANCIES

- Major Party Vacancies

- No Candidate Ran in Primary (early vacancy)
- Candidate withdraws, dies or is disqualified under IC 3-8-1-5 after the primary but on or before 10/8/2016 (early vacancy)
- Candidate withdraws, dies or is disqualified after 10/8/2016 (late vacancy)



A Party is not required to fill a vacancy

IC 3-13-1; IC 3-13-2

## LOCAL BALLOT VACANCIES

- Candidate Withdrawal

- “Voluntary” (for any reason) by noon Friday 7/15/2016
- “Mandatory” if candidate moves out of election district or is disqualified under IC 3-8-1-5
- ⚠ Mandatory withdrawal can occur at any time
- Form: General Election Candidate Withdrawal (CAN-24) (same form for school bd. & small town candidates but different dates for voluntary withdrawal)

IC 3-8-7-28; IC 3-8-2.5-4

## LOCAL BALLOT VACANCIES



- Major Party Vacancy Caucus- No Candidate ran in the Primary
  - Step 1: County Chair sends CAN-30 by 1st class mail to precinct committeemen 10 days before caucus and files CAN-30 with clerk by noon 10 days before caucus
  - Step 2: Candidates file CAN-31 with county chair and clerk by 72 hours before caucus
    - CAN-12 of selected candidate must be filed before CAN-29 or with CAN-29
  - Step 3: County Chair files CAN-29 with clerk certifying selected candidate

IC 3-13-1-9; IC 3-13-1-10.5; IC 3-8-9-5(1)(F)

## LOCAL BALLOT VACANCIES

- Deadlines for Major Party Vacancy Caucus- No Candidate ran in the Primary
  - Caucus must be held by noon 6/30/2016
  - CAN-29 Certificate of Selection must be filed by noon 7/5/2016
  - County Chair may also designate a person to hold caucus. If this occurs, designee may sign the CAN-29



IC 3-13-1-7(a)(1); IC 3-13-1-15(c); IC 3-5-4-1.5

## LOCAL BALLOT VACANCIES

- Caucus Procedure to fill Major Party Vacancy due to withdraw, death or disqualification on or before 10/8/2016
  - Same Procedure with respect to filing CAN-30, CAN-31, and CAN-12
  - Deadline to hold caucus is noon 30 days from date vacancy occurs
  - Deadline for filing CAN-29 is noon 3 days after the caucus, excluding weekend days

IC 3-13-1-9; IC 3-13-1-10,5; IC 3-13-1-15(f)

## LOCAL BALLOT VACANCIES

- Special Procedure # 1:
    - Ballot Vacancies Filled By County Chair
      - Applies to all early ballot vacancies (no candidate in primary, withdraw, death or disqualification) on or before 10/8/2016
      - County Chair must be authorized by majority vote of “county committee” (precinct committeemen and vice committeemen)
-  In contrast, county committee may not authorize county chairman to fill all *office* vacancies

IC 3-13-1-6(b)(2)

## LOCAL BALLOT VACANCIES

- **Special Procedure # 1:**
  - Filing: CAN-29+CAN-31+CAN-12+Minutes or Resolution showing County Chair has authority
  - Deadlines:
    - No candidate ran in the primary: Select candidate (and sign all paperwork) no later than noon 6/30/2016 and file all paperwork by noon 7/5/2016
    - Withdrawal, disqualification or death on or before 10/8/2016: Must select candidate within 30 days of vacancy and file paperwork by noon 3 days following selection, excluding weekends

IC 3-13-1-6(b)(2), IC 3-13-1-7(b), IC 3-13-1-14, IC 3-13-1-15(d)

## LOCAL BALLOT VACANCIES

- **Special Procedure # 1: Sample Minutes**

### Minutes of the Orange County Republican Party

May 20, 2016

A meeting of the Orange County Republican Party Committee was held on May 20, 2016 at 5:30 p.m. at 501 Elm St, Paoli, Indiana.

A discussion was had about filling ballot vacancies for the 2016 general election ballot. Melissa McCarthy made a motion to authorize the county chairman to fill ballot vacancies on the 2016 general election ballot for the Republican Party.

With a majority of the county committee voting in favor of the motion, the motion passed.

Attested by:

\_\_\_\_\_  
Secretary Orange County Republican Party



IC 3-13-1-6(b)(2)

## LOCAL BALLOT VACANCIES

- Special Procedure # 2: Ballot Vacancies after 10/8/2016 because of withdrawal, disqualification, or death\*
  - County Chair fills vacancy even if not authorized by county committee.
  - CAN-35+ CAN-31+ CAN-12 must be filed by noon 3 days after candidate selected
    - \* With ballot vacancies no “notice of death” from clerk to county chairman is required like in *office* vacancies

IC 3-13-2-1; 3-13-2-8

## Rejecting Untimely Filings

- Major Party Ballot Vacancies
  - Notice of caucus (CAN-30) filed by noon 10-days before caucus
  - Declaration of candidacy (CAN-31) filed by 72-hours before the caucus is held
  - Certificate of Selection (CAN-29) by noon July 5 for primary vacancies and noon 3 days following selection for other vacancies
  - Statement of Economic Interest (CAN-12) filed before or with Certificate of Selection (CAN-29)
  - If accepted late CAN-30 or CAN-31 or these documents were not filed, related CAN-29 may not be accepted

IC 3-13-1-10.5; IC 3-13-1-15(e); IC 3-8-9-5(1)(F); IC 3-13-1-21

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## Questions

- Can the Democratic Party fill a ballot vacancy if the candidate that won the primary withdraws 7/14/2016?
- Yes
- After the Republican Party fills a ballot vacancy because no candidate ran in the primary, can the party fill the ballot vacancy for the same office if the new candidate moves out of the election district on October 15 and withdraws?
- Yes (late ballot vacancy procedure)

IC 3-13-1-10.5; IC 3-13-1-15(e); IC 3-8-9-5(1)(F); IC 3-13-1-21

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## Questions

- If no candidate ran for an office in the primary for the Republican Party and the party does not certify a ballot vacancy candidate by 7/5/2016, can the party fill the ballot vacancy sometime in August?
- No
- What if a candidate comes in to file a CAN-31 on 6/10/2016 and no CAN-30 has been filed so I don't know when the caucus is?
- Trick Question

IC 3-13-1-10.5; IC 3-13-1-15(e); IC 3-8-9-5(1)(F); IC 3-13-1-21

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## LIBERTARIAN PARTY VACANCIES

- Nominate local candidates (except judge) at county convention
  - Must hold convention by noon 6/30/2016 and certify candidates by noon 7/5/2016 (CAN-22+CAN-12)
- ⚠ Vacancies in local office are filled by Libertarian State Party
  - State Party must file “notice” (no state form) with clerk noon 10 days before filling vacancy, must fill vacancy by 6/30/2016, and must certify (Can-22+CAN-12) vacancy candidate by noon 7/5/2016.

IC 3-10-2-15; IC 3-13-1-20; IC 3-13-1-21



## Sore Loser Law



- General Rule: Candidate defeated in primary (or Libertarian Party Convention) is not eligible to become a candidate for the same office in 2016
  - District office is the same as at-large (a candidate losing in county council district 1 is not eligible to run for county council at-large and vice-versa)
  - Exception: A party may fill a ballot vacancy for same office with its own “sore loser”



Clerk would not reject sore loser filing. Issue may be raised in a candidate challenge

IC 3-8-1-5.5

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## Independent Candidates or Minor Party Candidates



- Nominate candidates by petition (CAN-19) filed with CAN-20 consent and CAN-12 (Deadlines on forms)
  - Certify using same guidelines as petitions filed in the spring (IC 3-5-6)
  - Petition carrier requirements same as in the spring (IC 3-6-12)
- Clerk must certify whether or not candidate filed enough certified signatures and either certify or deny certification of petitions

IC 3-10-2-15; IC 3-13-1-20

## Independent Candidates or Minor Party Candidates

- Certification template:

As Circuit Court Clerk of Jasper County I hereby certify, pursuant to IC 3-8-6-12(d), that Kevin Hart, independent candidate for the office of county commissioner district 1, received 136 certified voter registration signatures which is a sufficient number of signatures to run for that office in the November 8, 2016 general election.

\_\_\_\_\_  
Circuit Court Clerk, Jasper County

Date \_\_\_\_\_

IC 3-8-5-12(d)

## Independent Candidates or Minor Party Candidates

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- Denial of Certification template:

As Circuit Court Clerk of Johnson County I hereby deny certification of the petitions filed by independent candidate Al Yankovic for the office of county council at-large pursuant to IC 3-8-6-12(d) for the reason that the candidate submitted 342 certified signatures of registered voters, being less than the amount required by IC 3-8-6-3 of 465, so the petitions are not sufficient to place the candidate on the ballot for the office of county council at-large in the November 8, 2016 general election.

\_\_\_\_\_  
Circuit Court Clerk, Johnson County

Date: \_\_\_\_\_

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IC 3-8-5-12(d)

## Independent Candidates or Minor Party Candidates

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- Denial of Certification

- Clerk must immediately send notice of denial of certification to candidate by *certified mail*
- Candidate may appeal denial of certification by filing CAN-1 by noon 8/26/2016

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IC 3-8-6-12(d); IC 3-8-6-14

## SCHOOL BOARD

- Filing
  - CAN-34 + CAN-12 filed between 7/27/2016 and noon 8/26/2016
  - Requires at least 10 signatures of registered voters
    - In metropolitan school corp., voters must reside in the same board member district as candidate
    - In community school corp., voters must reside within the boundaries of the school corp.
  - CAN-34 is combined petition/consent and only one consent must be completed if multiple CAN-34s filed

IC 3-8-2.5-2; IC 3-8-2.5-2.5; IC 3-8-2.5-4

## SCHOOL BOARD

- School Corp. in more than one county
  - CAN-34 is filed in county with the greatest % of population of the school corp. and that county certifies all petition signatures (including those in another county)
  - Clerk in county with greatest % of population certifies or denies certification of petitions (like minor party/independent candidates)
  - Clerk in county with greatest % of population certifies candidates to each county election board of other counties where school corp. is located

IC 3-8-2.5-5; IC 3-8-2.5-6

## Petition Carrier Requirements

- An individual who circulates a candidate petition or public question petition is required to provide on each signature page of the petition:
  - A signed affirmation that petition carrier has no reason to believe that any signer is ineligible to sign or did not properly complete and sign the page; and
  - Printed information that identifies the petition carrier (name, address and date of birth).

IC 3-6-12

## Petition Carrier Requirements

- Petitions without petition carrier signature or information are accepted for filing and retained
  - Clerk does not determine validity of signatures while signature/information missing
  - Clerk notifies petition carrier and allows petition carrier to add petition carrier to sign or add missing information before deadline for filing
  - If petition carrier info and signature complete before deadline for filing, clerk determines validity of signatures

IC 3-6-12